

**DURHAM, NORTH CAROLINA  
MONDAY, SEPTEMBER 20, 2010  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Thomas J. Bonfield, City Attorney Patrick Baker, Deputy City Clerk Linda Bratcher and Senior Executive Assistant Tonette Amos.

Mayor Bell called the meeting to order with a moment of silent meditation and the pledge of allegiance led by Council Member Clement.

Mayor Bell read proclamations declaring September 26, 2010 as “DPR Play More Day” presented to Rhonda Parker, Director of Durham Parks & Recreation and September 2010 as National Childhood Obesity Awareness Month.

Mayor Pro Tempore Cole-McFadden made comments regarding the *Howard Clement Celebration of Life Scholarship Fund* and read the proclamation that was presented to him on Saturday night.

Council Member Clement thanked his family, friends and the Durham community for this recognition.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Bonfield asked that the public hearing for General Business Agenda Item # 31 [Voluntary Annexation Petitions] be held before the public hearing for Agenda Item #26 [Greenfire Economic Development Incentive Contract for Capital Investments for City Center Revitalization of the Hill Building].

**MOTION** by Council Member Clement seconded by Council Member Catotti to accept the City Manager’s priority item was approved at 7:14 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney.

Deputy City Clerk Bratcher swore in Natasha Nazareth-Phelps as a member of the Durham Board of Adjustment.

**September 20, 2010**

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. No items were pulled from the Consent Agenda.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve the Consent Agenda was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve City Council minutes for the August 2, 2010 and August 16, 2010 City Council Meetings; and

To approve City Council action taken at the August 5, 2010 City Council Work Session was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: BOARDS, COMMITTEES AND COMMISSIONS ATTENDANCE  
REPORTS FOR THE PERIOD JULY 1, 2009 – JUNE 30, 2010**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive attendance reports for the following Boards was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Audit Services Oversight Committee, Board of Adjustment, Capital Program Advisory Committee, Citizens Advisory Committee, Cultural Advisory Board, Design District Review Team, Durham Area Transit Authority Board of Trustees, Durham Bicycle and Pedestrian Advisory Commission, Durham City-County Appearance Commission, Durham Convention Center Authority, Durham Convention & Visitors Bureau-Tourism Development Authority, Durham Historic Preservation Commission, Durham Housing Authority Board of Commissioners, Durham Human Relations Commission, Durham Open Space & Trails Commission, Durham Performing Arts Center Oversight Committee, Durham Planning Commission, Durham Workforce Development Board, Environmental Affairs Board, Equal Business Opportunity Program Advisory Committee, Firefighter's Relief Fund Board of Trustees, Housing Appeals Board, Passenger Vehicle For Hire Commission, Raleigh-Durham Airport Authority, Recreation Advisory Commission and the Triangle Transit Board of Trustees.

**September 20, 2010**

**SUBJECT: HOUSING APPEALS BOARD – APPOINTMENT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to appoint Willie J. Sturgess, Sr. to the Housing Appeals Board as an alternate member to represent Landlord with the term to expire on June 30, 2012 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: BID REPORT – JULY 2010**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of July 2010 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Date:** August 4, 2010

**To:** Thomas J. Bonfield, City Manager

**Through:** Wanda S. Page, Deputy City Manager  
David Boyd, Finance Director

**From:** Joseph W. Clark, CLGPO, Purchasing Manager

**Subject:** Bid Report – July 2010

**Recommendation**

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of July 2010.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. **Bid: Kustom Signals Radar Instruments and Accessories**

**Purpose of Bid:** To provide the Police Department with radar instruments and accessories for traffic enforcement.

**Comments:**

Opened: July 2, 2010

Bidders:	Kustom Signals, Inc.	* \$10,762.00
	Lenexa, KS	
	All Traffic Solutions	\$10,980.00

**September 20, 2010**

State College, PA  
US Traffic Controls  
Dallas, TX

\$11,160.00

\*Awarded based on: X Low Bid \_\_\_\_\_ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	197		# Black Males	1	1%
Total # Females	96	49%	# White Males	97	49%
Total # Males	101	51%	# Other Males	3	1%
			# Black Females	1	1%
			# White Females	91	46%
			# Other Females	4	2%

**2. Bid: Panasonic Notebook Computers**

Purpose of Bid: To purchase notebook computers for the Durham Fire Department

Comments: 13 each @ \$4,245.00

Opened: July 2, 2010

Bidders:	CDW-G	* \$55,185.00
	Vernon Hills, IL	
	Amdex Disc. Tech Products	\$58,331.00
	Rochester, NY	
	Seamless Mobility Solutions	\$64,259.00
	Charlotte, NC	

\*Awarded based on: X Low Bid \_\_\_\_\_ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	4,796		# Black Males	253	5%
Total # Females	1,399	35%	# White Males	2,477	51%
Total # Males	3,397	65%	# Other Males	667	15%
			# Black Females	157	4%
			# White Females	956	20%
			# Other Females	286	10%

**September 20, 2010**

**3. Bid: Annual OnBase Software Maintenance Renewal**

Purpose of Bid: The maintenance is for the agenda automation software.

Comments: Information Access Systems is the sole source provider for OnBase Software and any associated software maintenance.

Opened: N/A

Bidders: Information Access Systems \* \$30,360.00  
Orlando, FL

\*Awarded based on: \_\_\_\_\_ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	11		# Black Males	0	0%
Total # Females	2	18%	# White Males	9	82%
Total # Males	9	82%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	18%
			# Other Females	0	0%

**4. Bid: Re-Build Grit Clarifier Unit**

Purpose of Bid: To remove, re-build and install Grit Clarifier Unit at North Durham WRF

Comments: KM Machine is the only known regional company that can repair this equipment.

Opened: July 22, 2010

Bidders: KM Machine Co., Inc. \* \$17,865.00  
Biscoe, NC

\*Awarded based on: \_\_\_\_\_ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	68		# Black Males	0	0%
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**September 20, 2010**

Total # Females	8	12%	# White Males	45	68%
Total # Males	60	88%	# Other Males	15	20%
			# Black Females	0	0%
			# White Females	8	12%
			# Other Females	0	0%

**5. Bid: Tactical Rifle Vests**

Purpose of Bid: To purchase Quantum Level V Ballistic Panel Vests for the Durham Police Department

Comments: This purchase was made from GSA contract #1005-TB

16 each @ \$1,278.12 – HIDTA Grant funds are being used to make this purchase.

Opened: July 18, 2010

Bidders: Central Lake Armor Express - Gov. Division \* \$20,450.00  
Central Lake, MI

\*Awarded based on: \_\_\_\_\_ Low Bid ☒ Other (See Comments)

**WORKFORCE STATISTICS**  
**CORPORATION STATISTICS**

Total Workforce	92		# Black Males	0	0%
Total # Females	78	85%	# White Males	15	14%
Total # Males	14	15%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	78	85%
			# Other Females	0	0%

**6. Bid: Office Furniture for Water Management**

Purpose of Bid: To purchase additional office furniture for three new positions for the Water Management Department.

Comments: This furniture will match existing furniture.

Opened: July 28, 2010

Bidders: Thrifty Office Furniture \* \$10,426.00

**September 20, 2010**

Durham, NC Capital Office Supply	\$10,625.00
Raleigh, NC Forms & Supply Inc.	\$10,680.40
Charlotte, NC  MacThrift Office Furniture	\$10,955.70
Raleigh, NC Alfred Williams & Co.	\$11,652.52
Durham, NC Price Modern Carolina	\$13,354.56
Morrisville, NC	

\*Awarded based on:   X   Low Bid   \_\_\_\_\_ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	14		# Black Males	3	22%
Total # Females	4	29%	# White Males	7	49%
Total # Males	10	71%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	4	29%
			# Other Females	0	0%

**7.     Bid:           Biological Chemical Emergency Gas Masks**

Purpose of Bid:       To purchase gas masks for the Police Department/Response Team

Comments:           150 @ \$109.527 each

Opened:             July 29, 2010

Bidders:	National Safety Supply of VA	* \$16,429.05
	Ashland, VA	
	AramSCO	\$17,250.00
	Durham, NC	
	Dawson Associates	\$19,400.00
	Lawrenceville, GA	

\*Awarded based on:   X   Low Bid   \_\_\_\_\_ Other (See Comments)

September 20, 2010

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	5		# Black Males	0	0%
Total # Females	2	40%	# White Males	2	40%
Total # Males	3	60%	# Other Males	1	20%
			# Black Females	0	0%
			# White Females	2	40%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for these items.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (\*).

**SUBJECT: STREETS, PARKS AND RECREATION AND OPEN SPACE  
ORDINANCE AMENDMENT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an ordinance amending Section 30-86 (Credits) of the Code of Ordinances of the City of Durham to suspend the running of the 10 year period during which impact fee credits can be used for the period January 1, 2008 through December 31, 2010 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14054**

**SUBJECT: FY 2011 CONTRACT BETWEEN THE CITY OF DURHAM AND  
CENTER FOR DOCUMENTARY STUDIES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract with The Center for Documentary Studies in an amount not to exceed \$55,000.00 for cultural arts-based economic development services was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT WITH COMMUNITY PARTNERSHIPS INC. FOR  
WORKFORCE INVESTMENT ACT FUNDED YOUTH FRAMEWORK  
SERVICES**



**September 20, 2010**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract with Community Partnerships, Inc. in an amount not to exceed \$225,000.00 to provide Youth Framework Services as part of the WIA Youth Employed and Succeeding program was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT WITH GENERAL MANAGEMENT SOLUTIONS, INC. FOR WORKFORCE INVESTMENT ACT (WIA) FUNDED ADULT AND DISLOCATED WORKER SERVICES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract with General Management Solutions, Inc. in an amount not to exceed \$825,000.00 for WIA Adult and Dislocated Worker Services was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CITY OF DURHAM EMPLOYMENT AND TRAINING FY 2011-2012 GRANT PROJECT ORDINANCE FOR U.S. CONFERENCE OF MAYORS/WAL-MART FOUNDATION PRIVATE GRANT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to Accept the Employment and Training Grant by executing the Grant Documents; and

To adopt the City of Durham Employment and Training FY 2011-2012 Grant Project Ordinance for U.S. Conference of Mayors/Wal-Mart Foundation Private Grant in the amount of \$280,400.00 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14055**

**SUBJECT: CONTRACT WITH BUILDERS OF HOPE INC. FOR YOUNG PARENTS GREEN JOB TRAINING PROGRAM**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract with Builders of Hope, Inc., to provide green job training for young parents in an amount not to exceed \$280,400.00 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**September 20, 2010**

**SUBJECT: PROPOSED SALE OF SURPLUS REAL ESTATE LOCATED AT 410 MELBOURNE STREET, PARCEL 131494**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to declare City Tract # 2094, 410 Melbourne Street, Parcel 131494, as surplus property;

To accept the offer of \$50,000.00 from Douglas James Peterson to purchase 410 Melbourne Street; and

To authorize the City Manager to sell and the Mayor to convey the property by non-warranty deed was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT FOR FY2010 EDWARD BYRNE JUSTICE ASSISTANCE GRANT WITH THE DISTRICT ATTORNEY AND THE ADMINISTRATIVE OFFICE OF THE COURTS**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract between the City of Durham, the District Attorney for the Fourteenth Prosecutorial District and the Administrative Office of the Courts under which the Administrative Office of the Courts will expend City funds to continue to support two full time Assistant District Attorney positions in the amount of \$65,677.00 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: 2010 TARGET GRANT AWARD**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to accept the 2010 Target Grant by executing the grant documents; and

To adopt the 2010 Target Grant Project Ordinance in the amount of \$1,500.00 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14056**

**SUBJECT: 2010 HIGH INTENSITY DRUG TRAFFICKING AREA (HIDTA) GRANT AWARD**

**September 20, 2010**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to accept the Executive Office of the President, Office of National Drug Control Policy, '2010 High Intensity Drug Trafficking Areas (HIDTA)' Grant by executing the grant documents; and

To adopt the Executive Office of the President, Office of National Drug Control Policy, '2010 High Intensity Drug Trafficking Areas (HIDTA)' Grant Project Ordinance , superseding Grant Project Ordinance #13995 in the amount of \$352,431.00 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14057**

**SUBJECT: USE OF ASSET FORFEITURE FUNDS**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the use of Asset Forfeiture Funds in an amount not to exceed \$265,000.00 for surveillance equipment was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: EPLUS GROUP, INC. COMPUTER LEASE AGREEMENT FISCAL YEAR 2011**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a five (5) year lease agreement with ePlus Group, Inc. to lease 109 desktop computers, and 10 laptops in the amount of \$92,119.86 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CHANGE IN AUTHORITY MEMBERSHIP PURSUANT TO CITY CODE SECTION 50-422 (B)**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to rescind all appointments to the Durham Area Transit Authority Board of Trustees pursuant to City Code Section 50-422 (b) was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**September 20, 2010**

**SUBJECT: CONTRACT WPR-1, MUD VALVE REPLACEMENT - HAREN CONSTRUCTION**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute contract WPR-1 with Haren Construction for construction services for the replacement of Mud Valves at the Williams Water Treatment Plant in the total amount not to exceed \$125,600.00;

To authorize establishment of a contingency fund for the contract of \$12,500.00; and

To authorize the City Manager to negotiate change orders for the contract provided that the cost of all change orders does not exceed \$12,500.00 and the total project cost does not exceed \$138,100.00 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT ONE WITH THE TRIANGLE TRANSIT AUTHORITY FOR OPERATION OF DURHAM TRANSIT SERVICES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute amendment one to the contract for operation of Durham Transit Services was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**The City Council disposed of the following agenda items at the September 9, 2010 Work Session:**

**2. Designation of Voting Delegates - North Carolina League of Municipalities Annual Conference, October 24-26, 2010, Winston-Salem, North Carolina**

To appoint Mayor Bell as a voting delegate and Mayor Pro Tempore Cole-McFadden as an alternate voting delegate to attend the North Carolina League of Municipalities Annual Business Meeting on Monday, October 25, 2010.

*(This item was approved at the 9-9-10 Work Session – Vote 5/0)*

**3. Designation of Voting Delegates - National League of Cities Annual Congress of Cities & Exposition, November 30-December 4, 2010 - Denver, Colorado**

To appoint Council Member Brown as a voting delegate and Council Member Ali as an alternate voting delegate to attend the National League of Cities Annual Business Meeting on Saturday, December 4, 2010.

*(This item was approved at the 9-9-10 Work Session – Vote 5/0)*

September 20, 2010

**14. Lease of 112 West Parrish Street, First Floor for the Parrish Street Common Room**

To authorize the City Manager to execute the lease agreement with BWS Durham, LLC for 3,251 square feet of rentable ground floor space at 112 West Parrish Street in Downtown Durham for use as the Parrish Street Common Room.

*(This item was referred back to the Administration – General Services Dept.)*

**15. Hillside Park and Aquatic Center/W. D. Hill Recreation Center Upgrades Project – Additional Project Contingency Request**

To establish an additional project contingency in the amount of \$15,000.00; and

To authorize the City Manager to negotiate and execute change orders on the Hillside Park /- W. D. Hill Recreation Center Upgrades construction contract, provided the total project cost does not exceed \$567,299.00, which includes the initial construction contract for \$480,260.00, the initial contingency for \$72,039.00, and the additional contingency for \$15,000.00.

*(This item was approved at the 9-9-10 Work Session with a vote of 5/0)*

**23. Culture of Service Initiative**

To receive an update on the Culture of Service Initiative.

*(A presentation was received at the 9-9-10 Work Session)*

**24. Fourth Quarter 2010 Financial Report**

To receive the Fourth Quarter 2010 Financial Report.

*(A presentation was received at the 9-9-10 Work Session)*

**25. Durham County Tax Administration Annual Tax Settlement**

To receive a presentation by the Tax Collector of the tax settlement for FY 2010.

*(A presentation was received at the 9-9-10 Work Session)*

**27. Ralph McKinney**

**September 20, 2010**

To receive comments from Ralph McKinney regarding grandparents rights to support grandchildren.

*(Comments were received at the 9-9-10 Work Session)*

**28. Reggie Jackson Jones**

To receive comments from Reggie Jackson Jones regarding transit routes.

*(Citizen did not appear at the 9-9-10 Work Session)*

**[PUBLIC HEARINGS]**

**SUBJECT: PUBLIC HEARING FOR VOLUNTARY ANNEXATION PETITION  
RECEIVED BY JANUARY 1, 2010**

To receive citizens' comments concerning the annexation of the following Voluntary Annexation Area: FY2010-01 Elementary School E

To adopt an ordinance annexing to the City of Durham the Voluntary Annexation Area [FY2010-01 Elementary School E] effective from and after September 30, 2010 in accordance with N.C. General Statutes 160A-31.

Budget Director Bertha Johnson stated the voluntary annexation petition for Elementary School E is a tax exempt property.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt an ordinance annexing to the City of Durham the Voluntary Annexation Area [FY2010-01 Elementary School E] effective from and after September 30, 2010 in accordance with N.C. General Statutes 160A-31 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14058**

**SUBJECT: GREENFIRE ECONOMIC DEVELOPMENT INCENTIVE CONTRACT  
FOR CAPITAL INVESTMENTS FOR CITY CENTER  
REVITALIZATION OF THE "HILL BUILDING" IN DOWNTOWN  
DURHAM**

**September 20, 2010**

To conduct a public hearing to receive public comments on the Proposed Greenfire Economic Development Incentives Agreement being held per GS 158-7.1;

To authorize the City Manager to execute the economic incentive agreement between the City of Durham and Greenfire Development, L.L.C. for the capital investment in the “Hill Building” in downtown Durham; and

To authorize the City Manager to coordinate with lending institution involved in providing additional loans for the project and to prepare and execute the necessary agreement, loan or closing documents to satisfy the loan payment requirement referenced in the Hill Building incentive agreement, including an agreement to the subordination the City’s loan to that of other lender loan(s).

Mayor Bell opened the public hearing.

Economic and Workforce Development Director Kevin Dick presented the economic development incentive proposal for the Spark Hotel project. He stated his presentation would provide answers to the following: 1) what is the Spark Hotel and intended amenities, 2) why is the Spark Hotel important for the continued resurgence and revitalization of downtown Durham, 3) what is the administration recommending in terms of public investment for the redevelopment of the Hill Building into the Spark Hotel, 4) what would the City gain from its investment and 5) why does this proposal makes sense for Durham taxpayers.

Mr. Dick stated the Spark Hotel is being planned by Greenfire Development, LOC and gave a power point presentation that referenced previous development projects that have reflected a pattern of development that has been consistent with the Downtown Master Plan and the Center City Market Retail study to include Baldwin, Kress, Legacy Tower, as well as Chapel Hill Street/Foster Street buildings. He outlined developments associated with the Rogers Alley project and its amenities: ground floor retail and restaurants, outdoor courtyard, historically renovated office, four apartments for rent and currently 80 percent leased. He stated the redevelopment of the Hill Building into the Spark Hotel would bring about more foot traffic in the City Center and a return of City Center to a prominence as well as a stronger downtown business climate. He stated the Spark Hotel would complement cultural arts and recreational opportunities in downtown Durham such as the Durham Performing Arts Center, The Carolina Theatre and the Durham Bulls Athletic Park. He pointed out the Spark Hotel and Spa would be a 165-room luxury hotel with intended amenities including 6,000 square feet of retail space, a spa, fitness center, 7,000 square feet of meeting rooms and valet parking; there would be an approximate \$52.7 million of private investment coming from Greenfire Development and their investors and the developer partner would be Interstate Hotels and Resorts. He noted the proposed development would help with the revitalization of Parrish Street.

Mr. Dick discussed the proposed incentive from the City to include a lump sum loan payment of \$1 million payable at certificate of occupancy for the upscale hotel--not a shell certificate of occupancy, a 10-year incentive payment with annual payments of \$100,000 per year as well as 15 years of incentive payments with \$113,000 in year one and \$150,000 for years 2 through 15 for a grand total of \$4.2 million. He reported the money would only be paid under the following



**September 20, 2010**

conditions: construction would need to commence by July 31, 2011 and conclude by July 31, 2013 and hotel must be continuously operating during the course of the 15-year incentive term. He stated the City would get the following in terms of investment: a luxury boutique hotel and spa operated by one of the foremost hotel operators in the world, additional hotel rooms to add to its ability to be an effective convention center destination, a substantial private investment including over \$30 million in qualified capital investment as per the economic development policy and resolution, at least 250-300 jobs, including approximately 125 permanent jobs with a substantial percentage paying above the livable wage \$11.40 per hour, over \$2 million in incremental property tax revenues, over \$1 million in parking revenues for 20 years, possibility of an overall net gain of nearly \$6 million to the City, over \$12 of private investment for every \$1 of public investment and a boost for other downtown businesses. He stated the workforce development agreement that Greenfire plans to enter into as a part of this proposal would make the Durham JobLink Career system the primary source for referrals and possible hires for permanent and temporary construction jobs. He stated a Durham based business plan would be in place to ensure that Durham businesses get opportunities to bid on work associated with the redevelopment project. He mentioned in the workforce agreement there is a partnership with JobLink, North Carolina Central University as well as the Durham Technical Community College-- both of which have hospitality/tourism and culinary training programs which would provide an opportunity for graduates from these institutions to compete for some of the job opportunities at the Spark Hotel. He outlined other reasons why this project makes sense for Durham taxpayers: the proposal is consistent with goals and vision of the Downtown Master Plan, the Parrish Street Plan, a focus on the City Center and an increase in bookings and meeting rooms that would help the downtown Marriott Convention Center and it converts a significant and visible downtown building into new use and supports sustainability through its adaptive re-use of an office building into a hotel.

Council Member Ali stated this proposal is in line with what we would like to do in downtown Durham especially since this building is not at its highest and best use. Relative to the cash flow projections, how would \$1 million be paid back in the cash flow analysis.

Finance Director David Boyd referenced that there is a revised cash flow projection sheet. He reported in FY2033 there is a lump sum repayment of \$1.8 million. He reported there would be no payments until no later than 20 years unless they pay their initial debt off sooner.

Mayor Bell asked staff to elaborate more regarding the incentive payment and hotel rental rates.

For clarification, Economic and Workforce Development Director Kevin Dick stated payments by the City would be based on the hotel continually operating. He stated for some reason if Greenfire went out of business and was unable to continue operating the hotel, the City's financial relationship with Greenfire would cease at that point and incentive payments would stop. We would still have a luxury hotel that would be built, but would no longer be paying incentive payments.

City Manager Bonfield noted there is security behind the \$1 million loan. He stated the City would be providing them a loan, but there is security interest in the building in the event Greenfire cease to operate the hotel.



**September 20, 2010**

Kevin Dick noted the average daily rate for rooms would be \$185 a night which is consistent with other luxury hotels in the area based upon information from the Durham Convention and Visitors Bureau.

Mayor Pro Tempore Cole-McFadden referenced Section 7 dealing with the good faith efforts to contract with Durham firms and requested more specificity along with inclusion by the Office of Equal Opportunity/ Equity Assurance and to help with setting goals and to sub-element the project so that it is easier for smaller firms to bid successfully on the project.

Economic and Workforce Development Director Kevin Dick replied they recently spoke with the Office of Equal Opportunity/ Equity Assurance about sharing the information with the firms in the Durham SDBE data base so that they could be included in any communications regarding this project.

Mayor Pro Tempore Cole-McFadden called on the developer to work with the Office of Equal Opportunity/Equity Assurance regarding this project.

Council Member Ali asked questions regarding the \$1.8 million that would be capitalized at the end of 20 years.

Finance Director David Boyd stated this project was structured so that this payment would be due when their existing debt is paid off--this lump sum payment would be less than their annual debt service on the bonds that they are going to be issuing to finance the project so if they are making their bond payments up until that date they would have sufficient cash to pay the City back at this time and the bonds are for 22 years which is their current plan.

Regarding the City having security interest in the building, Council Member Brown asked what position the City would be in.

Finance Director David Boyd stated the city would be subordinate to whatever debt was issued to construct the project, but not subordinate to any future financings that the developer may undertake for other parts of the project. He stated depending on how many loans they have--effectively the City would be behind the money that was used to construct the project.

For clarification, Council Member Brown stated there would be no interest payment on the loan and there would be a balloon payment on the loan and the interest after 22 years.

Finance Director David Boyd replied that's correct.

Wendy Jeffries, representing the Durham Marriott Hotel and Convention Center, offered their support for the proposed Greenfire hotel project. She stated the Convention Center is supported by the Durham Marriott Hotel which has 190 sleeping rooms and for a facility of that size; they need up to 600 room nights to support the Convention Center. She stated with the addition of adding hotel rooms to downtown there would be walkable hotel rooms to the Durham Convention Center and would bring visitors to downtown.

**September 20, 2010**

Dawn Paffenroth, a member of the Durham Convention Center Authority, spoke in support of this project. She noted the Convention Center is underutilized because of the lack of hotel rooms.

Shelly Green, President of the Durham Convention and Visitors Bureau, stated she was not present to advocate for or against this incentive, but to offer information pertaining to the hotel market regarding the need for additional hotel rooms, how cities have provided financing for convention centers and downtown hotels and history regarding when new hotels are built they have been able to generate additional demand to fill those rooms.

Starla Tanner, representing North Carolina Central University, stated they are excited about this opportunity for their hospitality/tourism students to partner with this project. She shared information regarding other partnerships that the students in the hospitality/tourism field are involved with. She stated this opportunity would present an effort with Greenfire for the students to have internship and career opportunities.

Bill Kalkhof, representing Downtown Durham, Inc., highlighted a couple points in the memo provided to Council last week regarding this issue: the need for a transformative project in the Center City, project is consistent with the Downtown Master Plan, retail market analysis and the Parrish Street Redevelopment Plan, project is a good deal for taxpayers commenting on the financial plan that protects the public taxpayer and in this deal, there would be no payment until the deal is complete and the incentive is needed to make this project happen. Also, he highlighted other reasons why this incentive should be supported: downtown nor the community is being held by a vacant building of the Sun Trust towers historical significance, a third-party consultant and strategic partners confirmed that hundreds of hotel rooms are needed within one one mile of the Convention Center in order to increase bookings of meeting rooms thereby increasing revenues and reducing the current operating losses and finally this project would keep the momentum of downtown revitalization moving forward.

Ted Conner, representing the Durham Chamber of Commerce, made observations regarding this proposed project. He stated this hotel would inject a tremendous amount of new street level activity that would energize the center portion of downtown and would be a destination location attracting thousands of customers, visitors and hotel employees. He stated Greenfire has worked in these trying economic times to find a creative approach to combine private sector equity, local government funding and stimulus bonds to finance this boutique hotel project.

Scott Harmon urged Council to support this project because it is really important to downtown and its vision, and would put an end to the economic uncertainty that we are experiencing right now.

Matt Drew expressed concerns with this project and with Greenfire asking for more money which should send a signal from the market that a top-end boutique hotel with a pool on the roof may not be the way to go. He stated we may need hotel rooms in Durham, but we do not need to finance and fund this giant hotel. He raised concerns with the cash flow analysis discussing that there is no base line, revalues the building at five times the current value, and with Greenfire's partner--Interstate Hotel and Resorts.

**September 20, 2010**

Jim Hobbs, representing Hospitality Alliance of NC, mentioned that he was present tonight on behalf of three members [Roddy Jones, Bob Winston and Doyle Parrish] of this organization. He opposed the hotel incentives and discussed the electronic letter he sent to Council earlier this evening which highlighted concerns that the project is made to look like new tax revenues that are being paid out against the payments the city is going to make, the room rate and that this hotel is going to shift demand and tax revenues from one taxpayer to a different taxpayer.

Pastor Sylvester Williams, representing the Durham Business and Professional Chain, informed Council that Jesse Callis has been working with Greenfire in trying to get 30 percent participation of the African American community in this project so that the community can prosper and grow.

Larry Hester spoke in support of this project. He stated that Greenfire has reached out to their community to foster inclusion and commented on the meetings with Jesse Callis and Greenfire. He asked that there be 30 percent African American participation on this project. Mr. Hester stated the Durham Business and Professional Chain is available to work with Greenfire to finalize this project and its expectations.

Stephen Mangano, representing Greenfire, made comments regarding their work in the City since 2003 focusing on rehabilitating historic assets in downtown and shared information regarding his background/work experience. He reported that they met with NCCU and is enthusiastic about working with their hospitality program. He outlined that the competitive set is the Umstead, Sienna Hotel, Franklin Hotel and the Washington Duke and would not be displacing the Durham Marriott and the Durham Hilton who is owned and managed by Interstate Hotels who would be the manager of this project. He provided background information on the Interstate Hotels and stated that they would be creating new demand—more rooms for the Convention Center and additional meeting space for the Washington Duke. He stated this is a collaborative hospitality effort for people who are interesting in the City Center of downtown Durham. He said to create a hotel of this size within walking distance, with revenue to be generated and the type of customers that would spend money in the community is a win-win for everybody. He stated this project would create 125 full-time jobs, 250 total jobs created throughout this process.

Michael DePrisco, representing the Art Institute at the American Tobacco Campus, spoke in support of this project. He stated the Art Institute offers academic degree programs in culinary arts and culinary arts management and this project would be a great fit for the current students as well as students who are graduating and seeking positions in hospitality and in the culinary arts field.

Seth Gross made comments on his working relationship with Greenfire and as a result, he announced that he would be opening Bull City Burger and Brewery on Parrish Street. Also, he offered his support for this project highlighting that the hotel would be great for the city and would have an enormous impact on the current and upcoming businesses in downtown.

John Compton, representing Preservation Durham, stated this project would preserve and bring back one of Durham's most visible landmarks downtown to its former glory and provide a great incentive for the Center City and would be a real boom to surrounding neighborhoods.

**September 20, 2010**

Victoria Peterson, representing Triangle Citizens Rebuilding Communities/Fiber to the World, stated this is a good opportunity and would hope that Greenfire would put cable or fiber optic in the building to bring high speed internet for their clients. She stated this is the kind of project that is needed in this community to help young men and women put their skills to practice. She also commented that fiber optic is needed for each building downtown and for every home in this community. She asked Greenfire to consider making sure that local young men and women are going to get these jobs associated with this project.

Mark Iwinski stated he was not opposed to this project but would like to see a high percentage of employees receiving a livable wage. He commended Greenfire for not destroying this building and asked that the historic fabric of the interior of the building be maintained as much as possible. He asked Greenfire to approach local artists and organizations representing North Carolina when decorating the building/rooms and that steps are taken concerning energy programs/conservation in terms of water, electricity and heat.

Hillary \_\_\_\_\_ stated that she was an advocate for this project. She addressed the Council asking what is the backup plan should the project fail and to address how the City would be protected.

Chuck Watts, representing the Parrish Street Advocacy Group, stated they have been supportive of the Greenfire project on Parrish Street and they support their efforts regarding this project moving forward.

Mayor Bell closed the public hearing.

Mayor Bell asked the developer what is the cost per room for a luxury boutique hotel as well as the cost to construct such a hotel.

Stephen Mangano, representing Greenfire, replied \$190 a night and stated it would vary--perhaps \$208,000 or \$300,000 a key--depending upon the condition of the building.

Mayor Bell asked the developer if they considered taking down the hotel and building it new.

Stephen Mangano, representing Greenfire, stated they did not think it would be possible. He noted the hotel is the highest and best use solution that would generate the most tax dollars, would have the biggest impact into the City as opposed to any other alternatives that they considered.

For clarification regarding the cash flow analysis, Mayor Bell asked staff with this project we are talking about net new tax dollars.

Finance Director David Boyd replied that's correct.

Regarding cash flows, Council Member Ali asked several questions regarding the recovery zone bonds.

**September 20, 2010**

Finance Director David Boyd informed Council that the developer is making use of the recovery zone facility bonds which are different than build America bonds, there is tax exempt debt that the developer would have access to, but they are fully responsible for the repayment of the debt and they have one additional approval from the Local Government Commission before they would be authorized to issue that debt.

Council Member Ali asked if that approval from the Local Government Commission -- does that put this City in any risk about this project and what is the annuity payment.

Finance Director David Boyd replied no and that the City does not have any connection to the issuance of debt at all. He noted the current financing plan is a 22--year final maturity. Regarding the annuity payment, he noted their estimates are about eight and a half percent interest rate and repayment would be \$2.5 to \$2.6 million a year.

For clarification, Council Member Ali noted at year 20 or 22 the bonds would be fully paid out and our debt would be due at that time--\$1.8 million--so they would not have the recovery facility bond payment any more of \$2.5 million so those proceeds could be used to pay the City back and get out of the deal.

Finance Director David Boyd replied yes.

City Manager Bonfield pointed out that the government [city, county, state or federal] is not securing those bonds and any reference of the utilization of the recovery zone \$25 million bond is somehow an incentive or subsidy would not be an accurate statement.

Finance Director David Boyd replied that's correct--the federal government allows a private developer in this instance to have access to the tax exempt market.

City Manager Bonfield noted the developer has to secure private investors to buy those bonds and there is no government backing at any level of government on those bonds.

Council Member Catotti asked the developer to expand on their commitment to providing a livable wage on the permanent jobs by category.

Stephen Mangano, representing Greenfire, replied that they don't have a category detail, but would follow up with that information. He noted because of the nature of this project being a high level luxury hotel there would be opportunities throughout the property to have a higher percentage of liveable wages than a standard hotel.

Regarding the cash flow analysis, Council Member Brown asked staff to address how Greenfire in the year 2035 would come up with the \$1.8 million loan repayment.

Finance Director David Boyd explained that during each year leading up to that point, they would be making debt payments of roughly \$2.5 million a year. He noted when the debt payments have ended Greenfire would replace that debt payment with a repayment of \$1.8 million to the City. He noted there is no information regarding the cash flow for the developer presented on the cash

**September 20, 2010**

flow analysis.

Regarding transferrable rights and if there is an unfortunate foreclosure, Council Member Brown asked what happens to the city deal.

Assistant City Attorney Fred Lamar stated there are provisions in the contract by which a lender could step in the shoes of Greenfire and the payments would continue so long as Greenfire did in fact perform--the hotel is constructed and it continues to operate as a hotel annually--the payments would continue.

Council Member Brown shared concerns received from constituents regarding the condition of several warehouse buildings owned by Greenfield in the right hand and center fields behind the Durham Athletic Park. He noted these buildings do not enhance the investment that the City has made into the historic ballpark and stated the walls on the warehouses need to be power washed and painted.

Michael Lemanski, representing Greenfire, noted those properties are included in the original deal points document with the City--the city had contemplated acquiring those properties from them and that was to occur as they move to the next step after the hotel/Hill building, as they are working toward the property on Parrish Street and subsequent properties. He noted they saw the properties being in limbo because they were not sure what the City wanted to do with those properties and was waiting on clarity.

Council Member Brown stated the City itself would prefer that the exterior walls of those warehouses be power washed and painted.

Michael Lemanski, representing Greenfire, commented on the renovation of the Brame building that would be housing a new tenant. He noted that they would be painting, changing those windows and power washing.

Council Member Brown asked the developer what is the timeframe for power washing and painting the exterior walls of the buildings behind right and center fields at the old Durham Athletic Park.

Michael Lemanski, representing Greenfire, stated it will be in the next couple of months before this hotel breaks ground.

For clarification, Council Member Brown asked Michael Lemanski are you power washing and painting walls of all the warehouses behind right and center fields of the Durham Athletic Park. \

Michael Lemanski, representing Greenfire, replied yes. He noted they are working on one of the buildings in center field and the other property Greenfire can do as a part of their own omission.

Council Member Brown asked the developer for clarification on painting and power washing of all the warehouses behind right and center fields.



**September 20, 2010**

Michael Lemanski stated one building is being done because of a tenant moving in and Greenfire will do the other one to match it once that process happens. Greenfire is doing one and the tenant would be doing the work on the other. He stated the exterior walls [painted and power washed] would be done in the next couple of months.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive public comments on the Proposed Greenfire Economic Development Incentives Agreement being held per GS 158-7.1;

To authorize the City Manager to execute the economic incentive agreement between the City of Durham and Greenfire Development, L.L.C. for the capital investment in the “Hill Building” in downtown Durham; and

To authorize the City Manager to coordinate with lending institution involved in providing additional loans for the project and to prepare and execute the necessary agreement, loan or closing documents to satisfy the loan payment requirement referenced in the Hill Building incentive agreement, including an agreement to the subordination the City’s loan to that of other lender loan(s) was approved at 8:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Regarding Agenda Item 21 [Change in Authority Membership Pursuant to City Code Section 50-422(B), Mayor Bell recognized Reginald Jackson Jones for comments and informed him that action has already been taken on this item. Mr. Jones raised a concern with rescinding the authority of the DATA board.

Mayor Bell requested an excused absence from the September 23, 2010 City Council Work Session.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council member Woodard to excuse Mayor Bell from the September 23, 2010 City Council Work Session was approved at 9:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 9:01 p.m.

Linda E. Bratcher, CMC  
Deputy City Clerk

D. Ann Gray, MMC  
City Clerk